

AUG 02 2005

THE LAW OFFICES OF  
**LYON & HARR**  
A LIMITED LIABILITY PARTNERSHIP

300 ESPLANADE DRIVE, SUITE 800  
OXNARD, CALIFORNIA 93036

INTELLECTUAL PROPERTY LAW INCLUDING PATENTS,  
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TELEPHONE: (805) 278-8855  
FACSIMILE: (805) 278-8064  
EMAIL: Mail@CuttingEdgePatents.com

# Facsimile Cover Sheet

**To:** USPTO  
ATTN: Group Art Unit 2173

**From:** Mark Watson

**Fax:** (703) 872-9306

**Pages:** Cover + 11

**Re:** Serial No.: 09/682,185  
Filed: August 2, 2001  
Attorney Docket No: MCS-035-01 (172002.01)

**Date:** August 2, 2005

☒ **Urgent**

☒ **For Review**

☐ **Please Comment**

☒ **Please Reply**

## CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on August 2, 2005  
Date

Mark Watson  
Signature

Mark Watson, Registration No. 41,370  
Typed or printed name of person signing Certificate

### This correspondence includes the following attached papers:

1. Facsimile Cover Sheet including Certificate of Transmission under 37 C.F.R. § 1.8 (1 page)
2. Copy of Petition to Withdraw Holding of Abandonment filed on May 26, 2005 (10 pages)
3. Copy of Transmission Verification Report showing facsimile transmittal of Petition to Withdraw Holding of Abandonment to the USPTO Office of Petitions on May 26, 2005.

Please note that the attached paperwork is a copy of a Petition to Withdraw a holding of Abandonment filed via fax with the USPTO Office of Petitions on May 26, 2005. As proof of transmission of the Petition on May 26, 2005 a copy of the Facsimile Verification Report indicating transmission to the USPTO Office of Petitions fax number of (571) 273-0025 is also attached. The USPTO Office of Petitions has stated that they have no record of receiving the original Petition. Consequently, it is being retransmitted with this new cover sheet.

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TRANSMISSION VERIFICATION REPORT

TIME : 05/26/2005 12:22

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# Facsimile Cover Sheet

**To:** USPTO  
ATTN: Office of Patent Petitions

**From:** Mark Watson

**Fax:** (571) 273-0025

**Pages:** Cover + 9

**Re:** Serial No.: 09/682,185  
Filed: August 2, 2001  
Attorney Docket No: MCS-035-01 (172002.01)

**Date:** May 26, 2005

☒ **Urgent**

☒ **For Review**

☐ **Please Comment**

☒ **Please Reply**

## CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on May 26, 2005

Date

Mark Watson

Signature

Mark Watson, Registration No. 41,370

Typed or printed name of person signing Certificate

This correspondence includes the following attached papers:

1. Facsimile Cover Sheet including Certificate of Transmission under 37 C.F.R. § 1.8 (1 page)
2. Copy of Notice of Abandonment (2 pages)
3. Petition to Withdraw Holding of Abandonment under 37 CFR. §1.181 (3 pages)
4. Copy of Issue Fee Payment and Credit Card Payment Form faxed to USPTO on 2/8/2005 (2 pages)
5. Copy of Auto-Reply Facsimile Trans., indicating receipt of item (4) above, dated 2/8/2005 (1 page)
6. Credit Card Payment Form dated 5/26/2005 for payment of Issue Fee and Publication Fee (1 page)

This message is intended for the use of the individual or entity to which it is addressed, and may contain information that is privileged and confidential. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service.

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## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22113-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,185	08/02/2001	Steven Adam Breinberg	MCS-035-01	3045
27661	7590	03/16/2005	EXAMINER	
LYON & HARR, LLP 300 ESPLANADE DRIVE, SUITE 800 OXNARD, CA 93036			HAILU, TADESSE	
			ART UNIT	PAPER NUMBER
			2173	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.


**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
 Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09682185

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

**NOTICE OF ABANDONMENT**

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
- ☐ A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
 (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.
- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).
- ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
 The issue fee by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$\_\_\_\_\_.
- ☒ The issue fee and publication fee, if applicable, have not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: \_\_\_\_\_  
 Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

**RECEIVED**  
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AUG 02 2005

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**Application No. : 09/682,185**  
**Confirmation No. : 3045**  
**Applicant : BREINBERG, Steven**  
**Title : A SYSTEM AND METHOD FOR AUTOMATIC AND DYNAMIC LAYOUT OF RESIZABLE DIALOG TYPE WINDOWS**  
**Filed : August 2, 2001**  
**TC/A.U. : 2173**  
**Examiner : HAILU, Tadessee**  
**Docket No. : MCS-035-01 (172002.01)**  
**Customer No. : 27662**

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Commissioner for Patents  
P.O. Box 1450,  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**  
**UNDER 37 CFR §1.181**

Sir:

This is a petition requesting immediate withdrawal of the Holding of Abandonment issued in this case on May 16, 2005 for failure to pay the issue fee. Following is a statement of facts in support of the Petition for Withdrawal of the Holding of Abandonment.

**Statement of Facts:**

1. Applicants paid the issue fee of \$1,400.00 and publication fee of \$300.00 on February 8, 2005, well before the due date of April 6, 2005. Specifically, the fee was paid via facsimile of a copy of the completed Part B of the Fee(s) Transmittal along

Application No. 09/682,185  
Reply to Notice of Abandonment Dated May 16, 2005

with a copy of a Credit Card Payment Form (Form PTO-2038) in the amount of \$1,700.00.

2. An Auto-Reply Facsimile Transmission was received from the USPTO on February 8, 2005 indicating receipt of the completed Part B of the Fee(s) Transmittal and the Credit Card Payment Form (Form PTO-2038) via facsimile.
3. Copies of the completed Part B of the Fee(s) Transmittal, the Credit Card Payment Form (Form PTO-2038), and the Auto-Reply Facsimile Transmission acknowledging receipt by the USPTO are enclosed in support of the above statement of facts.
4. A new credit card payment form dated May 26, 2005, in the amount of \$1700.00, has been included along with this petition so as to facilitate payment of the issue fee and issuance of the subject patent application at the earliest possible opportunity. Please use this new credit card payment form in the event that the original credit card payment form can not be processed for some reason.

**CONCLUSION:**

In view of the above, it is respectfully submitted that applicants timely paid the issue fee in the subject patent application. Consequently, the Holding of Abandonment for failure to pay the issue fee appears to be in error. Therefore, applicants respectfully request immediate withdrawal of the Holding of Abandonment and issuance of the subject patent application at the earliest opportunity.

In paying the issue fee for the subject case, please use the attached credit card payment form dated May 26, 2005, in the amount of \$1700.00 in the event that the original credit card payment form can not be processed for some reason.

Application No. 09/682,185  
Reply to Notice of Abandonment Dated May 16, 2005

Additionally, in an effort to further the prosecution of the subject application, the applicants kindly invite the USPTO representative considering this Petition to telephone the Applicant's attorney at (805) 278-8855 if there are any additional questions or concerns.

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Oxnard, California 93036  
(805) 278-8855

Respectfully submitted,



Mark A. Watson  
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Attorney for Applicant